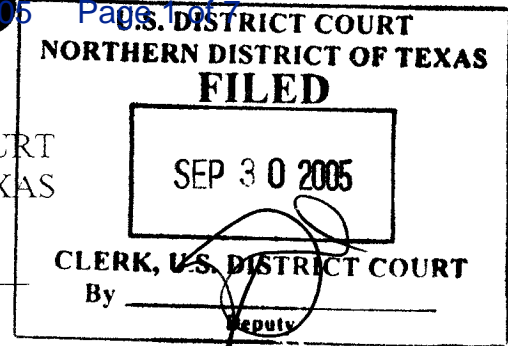


M

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



UNITED STATES OF AMERICA

v.

ORIGINAL

DAI QUOC NGUYEN (02)

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§

No. 3:05-CR-124-M

PLEA AGREEMENT

Dai Quoc Nguyen, John Nicholson, the defendant's attorney, and the United States of America (the government), agree as follows:

1. **Rights of the defendant:** Nguyen understands that he has the rights
 - a. to plead not guilty;
 - b. to have a trial by jury;
 - c. to have his guilt proven beyond a reasonable doubt;
 - d. to confront and cross-examine witnesses and to call witnesses in his defense; and
 - e. against compelled self-incrimination.

2. **Waiver of rights and plea of guilty:** Nguyen waives these rights and pleads guilty to the offense alleged in Count 1 of the indictment, charging a violation of 18 U.S.C. § 371 [18 U.S.C. §§ 1341, 1343, and 1957(a)], that is, conspiracy to commit mail fraud, wire fraud, and illegal monetary transactions, and the offenses alleged in Counts 13, 14, and 15 of the indictment, each charging a violation of 18 U.S.C. §§ 1343 and 2, that is, wire fraud and aiding and abetting. Nguyen understands the nature and elements of the crimes to which he is pleading

guilty, and agrees that the factual resume he has signed is true and will be submitted as evidence.

3. **Sentence:** The maximum penalties the Court can impose include:
Count 1:

- a. imprisonment for a period not to exceed five (5) years;
- b. a fine not to exceed \$250,000.00, or twice any pecuniary gain to the defendant or loss to the victim(s);
- c. a mandatory term of supervised release of not less than 2 years nor more than 3 years, may follow any term of imprisonment. If Nguyen violates the conditions of supervised release, he could be imprisoned for the entire term of supervised release;
- d. a mandatory special assessment of \$100.00;
- e. restitution to victims or to the community, which may be mandatory under the law, and which Nguyen agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense of conviction alone; and
- f. costs of incarceration and supervision.

Counts 13, 14, and 15 (aggregate penalties for all three counts):

- a. imprisonment for a period not to exceed fifteen (15) years;
- b. a fine not to exceed \$750,000.00, or twice any pecuniary gain to the defendant or loss to the victim(s);
- c. a mandatory term of supervised release of not less than 2 years nor more than 3 years, may follow any term of imprisonment. If Nguyen violates the conditions of supervised release, he could be imprisoned for the entire term of supervised release;
- d. a mandatory special assessment of \$300.00;

- e. restitution to victims or to the community, which may be mandatory under the law, and which Nguyen agrees may include restitution arising from all relevant conduct, not limited to that arising from the offenses of conviction alone; and
- f. costs of incarceration and supervision.

4. **Court's sentencing discretion and role of the Guidelines:**

Nguyen understands that the sentence in this case will be imposed by the Court after consideration of the United States Sentencing Guidelines. The guidelines are not binding on the Court, but are advisory only. Nguyen has reviewed the guidelines with his attorney, but understands no one can predict with certainty the outcome of the Court's consideration of the guidelines in this case. Nguyen will not be allowed to withdraw his plea if his sentence is higher than expected.

Nguyen fully understands that the actual sentence imposed (so long as it is within the statutory maximum) is solely in the discretion of the Court.

5. **Mandatory special assessment:** Nguyen agrees to pay to the U.S. District Clerk the amount of \$400.00, in satisfaction of the mandatory special assessment in this case.

6. **Defendant's cooperation:** Nguyen shall cooperate with the government by giving truthful and complete information and/or testimony concerning his participation in the offense of conviction and knowledge of criminal activities. Upon demand, Nguyen shall submit a personal financial statement under oath and submit to interviews by the government and the U.S. Probation Office regarding his capacity to satisfy any fines or restitution. The government will advise the Court of the extent of Nguyen's cooperation.

7. **Government's agreement:** The government will not bring any additional charges against Nguyen based upon the conduct underlying and related to Nguyen's plea of guilty. The government will dismiss, after sentencing, any

remaining charges in the pending indictment. The government will evaluate the extent and value of Nguyen's assistance to authorities and will file a motion for downward departure under the terms of §5K1.1 of the Federal Sentencing Guidelines if, and only if, the government deems such motion to be appropriate. The determination that a §5K1.1 motion is to be filed is in the sole discretion of the government after it has evaluated the entire scope and level of the defendant's cooperation. Nguyen understands the government is under no obligation to file such motion unless, in the government's opinion, the defendant has rendered substantial assistance. Nguyen further understands that this agreement is not contingent upon the outcome or success of any investigation conducted by the government or any testimony that he may provide; rather that the filing of this motion is contingent on the defendant's complete, truthful, forthright, and honest assistance, information, and testimony. This agreement is limited to the United States Attorney's Office for the Northern District of Texas and does not bind any other federal, state, or local prosecuting authorities, nor does it prohibit any civil or administrative proceeding against Nguyen or any property.

8. **Violation of agreement:** Nguyen understands that if he violates any provision of this agreement, or if his guilty plea is vacated or withdrawn, the government will be free from any obligations of the agreement and free to prosecute Nguyen for all offenses of which it has knowledge. In such event, Nguyen waives any objections based upon delay in prosecution. If the plea is vacated or withdrawn for any reason other than a finding that it was involuntary, Nguyen also waives objection to the use against him of any information or statements he has provided to the government, and any resulting leads.

9. **Voluntary plea:** This plea of guilty is freely and voluntarily made and is not the result of force or threats, or of promises apart from those set forth in

this plea agreement. There have been no guarantees or promises from anyone as to what sentence the Court will impose.

10. **Waiver of right to appeal or otherwise challenge sentence:**

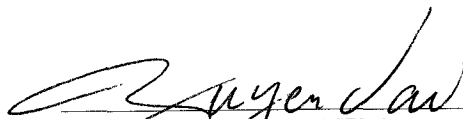
Nguyen waives his rights, conferred by 28 U.S.C. § 1291 and 18 U.S.C. § 3742, to appeal from his conviction and sentence. He further waives his right to contest his conviction and sentence in any collateral proceeding, including proceedings under 28 U.S.C. § 2241 and 28 U.S.C. § 2255. Nguyen, however, reserves the rights (a) to bring a direct appeal of (i) the calculation of loss amounts in determining the offense level under USSG § 2B1.1(b)(1), (ii) a sentence exceeding the statutory maximum punishment, or (iii) an arithmetic error at sentencing, (b) to challenge the voluntariness of his plea of guilty or this waiver, and (c) to bring a claim of ineffective assistance of counsel.

11. **Representation of counsel:** Nguyen has thoroughly reviewed all legal and factual aspects of this case with his lawyer and is fully satisfied with that lawyer's legal representation. Nguyen has received from his lawyer explanations satisfactory to him concerning each paragraph of this plea agreement, each of his rights affected by this agreement, and the alternatives available to him other than entering into this agreement. Because he concedes that he is guilty, and after conferring with his lawyer, Nguyen has concluded that it is in his best interest to enter into this plea agreement and all its terms, rather than to proceed to trial in this case.

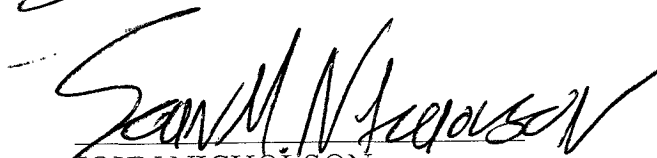
12. **Entirety of agreement:** This document is a complete statement of the parties' agreement and may not be modified unless the modification is in writing and signed by all parties.

AGREED TO AND SIGNED this 6 day of September, 2005.

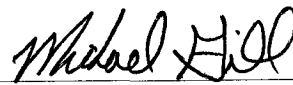
RICHARD B. ROPER
UNITED STATES ATTORNEY



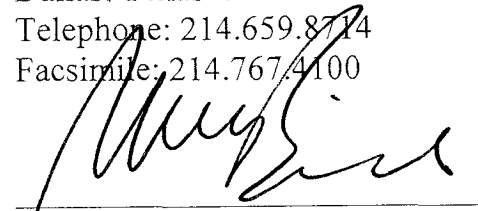
DAI QUOC GUYEN
Defendant



JOHN NICHOLSON
Counsel for Defendant

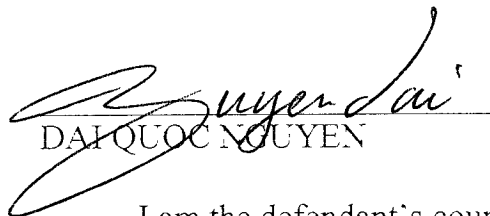


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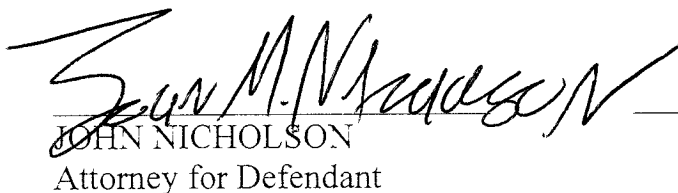
MARK MCBRIDE
Deputy Criminal Chief

I have read (or had read to me) this Plea Agreement and have carefully reviewed every part of it with my attorney. I fully understand it and voluntarily agree to it.


DAI QUOC NGUYEN

Sept 06 / 2005
Date

I am the defendant's counsel. I have carefully reviewed every part of this Plea Agreement with the defendant. To my knowledge and belief, my client's decision to enter into this Plea Agreement is an informed and voluntary one.


JOHN NICHOLSON
Attorney for Defendant

9-6-05
Date